

Guidelines for Assisting Displaced State Employees

AUTHORITY: State Personnel and Pensions Article (SPPA) Titles 2, 7 and 11. Code of Maryland Regulations 17.04.04.05.

The Guidelines provide clarification to Agency personnel officers regarding employee reinstatement rights and the services available from the Office of Personnel Services and Benefits (OPSB) for employees who are being separated, or who have received notice that their positions are being abolished, due to the lack of appropriations pursuant to section 11-302 of the SPPA. The Guidelines refer to special career advisory services, reinstatement options, job placement assistance and information workshops available to these employees.

All employees who are facing job loss due to lack of appropriations under this subtitle will receive a personal letter from OPSB's Executive Director and a copy of the Maryland State Employment Guide to Outplacement Services. This information, and the services referred to in this procedure, will also be provided to employees who have received formal notification that they are PENDING separation with a specific abolition date.

Separated employees must be given priority reinstatement rights, and it is appropriate to provide them with priority consideration. However, there is no mandate that they be selected due to their status on an eligible list. State law and regulations require that all individuals selected for State positions be qualified for that specific position. It is important that agencies assist employees by informing them about the available resources, which will assist them in effectively promoting their own qualifications and expertise for consideration.

1. **SCOPE**

These Guidelines apply only to employees in the State Personnel Management System, excluding temporary employees and employees on initial probation.

2. DEFINITIONS

In these Guidelines, the terms have the following meanings:

- a. "Comparable classifications" are those job classification titles at the same pay grade or lower pay grade within the same or similar occupational areas, and requiring the employee to possess the same or similar qualifications and knowledge, skills and abilities.
- b. "Employment consideration" includes a documented telephone interview, formal review of an application (MS-100) for minimum and selective qualifications, or an invitation for participation in an employment interview.
- c. "LO/SEP" is the abbreviation used on eligible lists to denote that a reinstatement candidate is certified as a laid-off or separated employee.

These candidates will appear at the top of an eligible list as "LO/SEP – Class/Series" for the classification they held upon separation and any lower job classification within the same job series. These candidates will appear at the top of an eligible list as "LO/SEP – Comp Class" for any designated comparable classification at the same pay grade or a lower pay grade.

- d. "LO/SEP PEND" is the abbreviation used on eligible lists to denote that a reinstatement candidate is certified as pending being laid off or separated, and the employee has received official notice of this action from their State appointing authority (AA).

These candidates will appear at the top of an eligible list as "LO/SEP PEND – Class/Series" for the classification they held upon separation and any lower job classification within the same job series. These candidates will appear at the top of an eligible list as "LO/SEP PEND – Comp Class" for any designated comparable classification at the same pay grade or a lower pay grade.

- e. "Priority consideration" means that the appointing authority (AA) prior to considering scored, "regular" reinstatement, transfer and special options candidates

from an eligible list: (1) notifies priority reinstatement candidates appearing on the eligible list of an available vacancy; and (2) provides employment consideration for the vacant position, maintaining all appropriate documentation (e.g., letter, documented phone call, etc.).

- f. "Priority reinstatement candidate" means a former non-temporary employee who has been laid off or separated, or who has been notified that they are being laid off or separated, and who is certified to an eligible list as a laid-off or separated (LO/SEP) candidate or laid-off or separated pending (LO/SEP PEND) candidate.
- g. "Reinstatement" applies to a former non-temporary State employee who returns to a position in the SPMS within three years from separation.
- h. "Scored candidates" are qualified applicants who completed the examination and received a passing numeric test score. This definition does not include transfer, reinstatement or layoff candidates.
- i. "Secretary" means the Secretary of the Department of Budget and Management.
- j. "Separation" or "separated" means that an employee is terminated pursuant to section 11-302 of the SPPA.

3. EMPLOYMENT & CAREER ADVISORY SERVICES

Employment & Career Advisory Services (hereafter, referred to as Advisory Services) are available to employees who are interested in finding alternative employment in Maryland State government. Employees may schedule meetings with Recruitment and Examination Division (RED) staff for assistance in identifying positions for which they may qualify for transfer, reinstatement and for submitting applications or resumes for consideration. These meetings will assist staff in assuring that all available avenues for reinstatement have been explored on behalf of the employee.

Advisory Services will be conducted in the Maryland State Employment Center, 300 W. Preston Street in Baltimore,

Maryland. Appointments will be available based on the demand for these services and staff availability.

4. REFERRING DISPLACED STATE WORKERS FOR SERVICES

Displaced State workers may be referred by their Agency personnel office or by self-referral. Whenever possible, referrals should be initiated in writing by Agency personnel officers and should include a completed application (MS-100) for each employee. In cases of employee self-referrals, RED staff will verify that the individual's position has been abolished or is being targeted for abolition, prior to the scheduled appointment.

Please advise all affected employees about these available services. Appointments can also be made in person or by phone at (410) 767-4850 (our toll free number at 1-800-705-3493). TTY callers may contact the Maryland Relay at 1-800-735-2258 or may dial 7-1-1 in Maryland. Employees should bring a completed State application (MS-100) and/or resume to the appointment. Applications are also available for downloading in PDF and WORD formats at www.dbm.maryland.gov.

Individuals must arrive on time for their appointments. Employees should be reminded that children are not permitted in the advisory sessions. A picture ID is required for admittance to the building.

RED staff will complete a referral form to document each appointment. The Form will then be forwarded to the staff person with whom the appointment was scheduled. A copy will also be provided to the Maryland State Employment Center reception area. RED will retain all related documentation for three years from the date of the employee's separation.

5. MARYLAND STATE EMPLOYMENT CENTER INFORMATIONAL WORKSHOPS

Informational workshops are also available to employees on the following topics: Applying for State Employment, Taking State Employment Exams, Surf the Net for State Employment Opportunities, and Correctional Officer – What's it all about? Obtain a Workshop Registration Form at www.dbm.maryland.gov

by clicking on "State Jobs" and selecting the link for the Maryland Employment Center. The search text box at the top right side of your computer screen can also be utilized by typing in "Maryland Employment Center." Registration forms may also be requested by phone at (410) 767-4850 or in person at the Center.

6. SPECIAL RIGHTS FOR PRIORITY REINSTATEMENT CANDIDATES

An employee who is separated under section 11-302 of the State Personnel and Pensions Article has the same reinstatement rights as a laid-off employee. All skilled or professional service employees (non-special appointment) are eligible to be certified to eligible lists as priority reinstatement candidates (LO/SEP). As appropriate and with advanced notification from the appointing authority, such employees will be certified to eligible lists as priority reinstatement candidates pending separation (Pending LO/SEP Date), to facilitate alternative placements prior to separation. Employees designated as pending separation are entitled to the same priority consideration and a LO/SEP candidate.

Certification to an eligible list as a priority reinstatement candidate (LO/SEP) is available upon request for the current or last job classification or any lower-level position within the same job series. For these cases, a pending code "Class/Ser. " will also appear on the eligible list to indicate that this certification is considered "within same class" as referenced in the SPPA section 11-208 (a).

Certification to an eligible list as a SEP candidate is available upon request for any same grade or lower grade level position within a comparable job classification. A pending code "Comp Class" will appear on the eligible list to indicate that this certification is considered "within comparable class" as referenced in the SPPA section 11-208 (b).

All management service, executive service and special appointment status employees will be afforded all available Maryland State Employment Center services; however, they are not eligible for certification as LO/SEP candidates. Individuals may request that they be certified as "regular" reinstatement

candidates for any former skilled and professional service classification held during State employment.

Under section 11-207 of the State Personnel and Pensions Article pertaining to the order of reinstatement:

The employee with the most seniority points shall be the first employee to be reinstated in the class from which the employee was laid off or separated under section 11-302 of this article, or to any lower class in the same job series within the principal department or other independent unit in which the layoff or separation occurred.

Reinstatement to a comparable class to which the Secretary has certified laid-off or separated employees under section 11-302 of this article shall be made from among the top five laid-off or separated employees with the most seniority points who are certified to the class.

The Agency personnel officer will be responsible for calculating seniority points in accordance with section 11-205 of the SPPA for inclusion on any eligible lists as a priority reinstatement candidate. An employee's seniority points are computed by totaling each of the following sums:

- (1) one point for each month of State employment;
- (2) one point for each month of employment in the principal unit in which the layoff or separation will occur; and
- (3) one point for each month of experience in the job series in which the layoff or separation will occur.

This information shall be noted on the MS-310 document when it is submitted to OPSB's Personnel Transactions Unit to process the separation. Employees' demographic information and seniority points will be provided to RED's Manager, Application Control, and the Scoring and Test Administration Unit.

7. PROCESSING REQUESTS FOR ASSISTANCE

RED staff will review the referral form and a complete employee work history to assess options for alternative placement (if applicable), future employment, and reinstatement. To the extent possible, RED staff will provide referrals to State Agency personnel officers (i.e., forward copies of applications) for consideration of any current recruitment activities that are underway. Staff will also determine each individual's current or last job classification held and salary grade, and verify each individual's employment status, to determine the level of reinstatement rights available for certification to eligible lists.

Staff will review each individual's completed MS-100 and/or resume to determine comparable job classifications at the same pay grade or lower classification for which s/he qualifies. Comparable job classifications are defined as similar occupational areas having the same or similar qualifications and skill requirements as compared to the individual's current or last job classification held. RED staff will consider comparable job classifications, including positions three salary grades below the employee's current or last held job classification.

Any individual certified as a priority reinstatement candidate must meet the minimum qualifications for the job classification. A candidate may request in writing to be included for additional job classifications more than three grades below the current pay grade. Similarly, the candidate may request in writing NOT to be certified for specified classifications or lower pay grades.

After conducting a review of qualifications for this purpose, RED staff will generate a letter to summarize the various services that have been provided, including a listing of any job classifications for which the individual has been certified as a LO/SEP or LO/SEP PEND candidate, or "regular" reinstate. A copy of this letter will be provided to the Agency personnel director.

8. AGENCY HIRING PROCEDURES

When filling a vacant skilled or professional service position, an appointing authority must adhere to the following:

In cases where the appointing authority is using an eligible list or register from a Position Specific Recruitment (PSR), or is recruiting for an Interview and Hire position, the "generic"

eligible list for that job classification must be cross-referenced to ensure that any LO/SEP or LO/SEP PEND candidates receive priority consideration.

- Notify LO/SEP and LO/SEP PEND candidates with appropriate documentation and provide them with priority consideration according to the provisions of SPPA section 11-208 and as defined above.
- An appointing authority must follow COMAR 17.04.04.05 regarding reinstatement when considering candidates for a vacant position:
 - i. A returning veteran or reservist is entitled to top priority for reinstatement consideration, as indicated in Title 2, Subtitle 7 of the SPPA.
 - ii. An individual who has been laid off or separated receives next priority in consideration for a vacant position. This will also include employees who are PENDING layoff or separation.
 - iii. The following reinstatement candidates may be considered, without priority, along with other eligible candidates:
 - 1. An individual who has resigned;
 - 2. A current employee seeking a return to a position in a classification formerly held; and
 - 3. An employee granted a leave of absence without pay.
- As per COMAR 17.04.04.05 (B), an employee may be reinstated to a position only if the employee is qualified for the vacant position. Therefore, selective qualifications, as defined in an approved position selection plan (PSP), do apply in this determination. Limitations on selection related to the individual's willingness to work in a specific geographic location also apply. However, the appointing authority may not avoid giving priority consideration to LO/SEP or LO/SEP PEND candidates by limiting selection to current State or unit employees, or to promotional candidates.

9. POLICY INTERPRETATION REGARDING USE OF ELIGIBLE LISTS

Personnel Reform was implemented with the intent of making the hiring process more flexible, in part, by giving program managers greater input and accountability for hiring decisions. Thus, the "rule of five" was eliminated, and banding was implemented with candidates displayed in random order by band. However, certain parameters were retained under SPPA section 7-209 to help ensure fairness and equitable treatment for all candidates (i.e., recruitment guidelines, use of best-qualified (BQ), better-qualified (BT) and qualified (QU)).

In many cases the extent of the testing process must be limited in scope to maximize resources and expedite the hiring process (i.e., testing may be limited to training and experience evaluations based on an candidate's application, or to a cognitive written test of general abilities or job knowledge). Optimally, the information obtained by program managers during a job-related, structured employment interview will contribute additional validity to the observations made during the testing and eligible list phase of the hiring process.

Separated employees must be given priority reinstatement rights, and it is appropriate to provide them with priority consideration. There is no mandate that they be selected due to their status on an eligible list. The primary goal of our selection procedure is to fairly and objectively identify the best individuals for State positions based on their relative skills and qualifications. The appointing authority's responsibility is to make the necessary assurances that in all instances they can defend their hiring decisions as being job-related, fair and consistent with business necessity.

10. AUDIT

All appointments to vacant skilled and professional service positions are subject to audit by DBM. The Secretary may rescind or correct any appointments that are not in accordance with these Guidelines.

11. EXCEPTIONS

When an exception to these Guidelines is in the best interest of the State, the Secretary may authorize it. The reasons for the exception shall be documented and satisfactory to the Secretary. The Secretary may delegate the authority to issue exceptions to these Guidelines to the Executive Director of the Office of Personnel Services and Benefits.

12. EFFECTIVE DATE

These Guidelines are effective on September 10, 2003. Thereafter, any change made to these Guidelines shall become effective upon the approval of the Secretary.

James C. DiPaula
Secretary, Department of Budget and Management
September 2003